

JPA File No.: 06-139 I
AG Contract No.: KR07-0101TRN
Project: Traffic Signal
Section: Gordon Drive & Bank Street
TRACS No.: HF148 01C
Budget Source Item No.: HURF

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
CITY OF KINGMAN

THIS AGREEMENT is entered into this date March 23rd, 2007, pursuant to the Arizona Revised Statutes § 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF KINGMAN, acting by and through its MAYOR and CITY COUNCIL the ("City"). The State and the City are collectively referred to as "Parties".

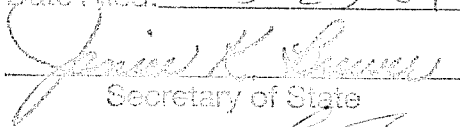
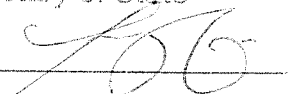
I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-334 and § 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes § 48-572 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.

3. The State has approved the exchange of Highway User Revenue Funds (HURF) pursuant to the amounts and schedule shown in column D of the table below for the construction of a new traffic signal and related street improvements located at Gordon Drive & Bank Street, hereinafter referred to as the "Project." The City will maintain and administer the Project. Such funds shall be repaid to the State by withholding from the Western Arizona Council of Governments (WACOG) Federal Apportionment and corresponding Obligation Authority as shown in column B and C in the table below. All such transactions to be made in accordance with the schedule shown in column A.

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

NO. 28811
Filed with the Secretary of State
Date Filed: 3-23-07

Secretary of State
By: 

A Federal Fiscal Year to be Processed	B STP Apportionment to be Charged to WACOG	C STP Obligation Authority to be Charged to WACOG	D 90 %HURF Funds to be Transferred to City
<u>Construction</u>			
FFY 2008	\$171,475.00	\$160,000.00	\$144,000.00
Total	\$171,475.00	\$160,000.00	\$144,000.00

II. SCOPE OF WORK

1. The City shall:

a. Provide design plans, specifications and other such documents and services required for construction bidding and construction of a new traffic signal and related street improvements located at Gordon Drive & Bank Street to the State prior to advertisement of the Project. The State's Local Government Section will then verify the work and location meet the requirements for HURF exchange.

b. Advertise for bids and award one or more construction contracts for the Project. Administer contracts for the project and make all payments to the contractor(s). Be responsible for any contractor claims for extra compensation due to delays or whatever reason attributable to the City. Comply with all applicable State Laws, Rules and Regulations.

c. Invoice the State for thirty percent (30%) of the total programmed HURF funds found above in Column D upon award of the construction. Total payment by the State to the City shall not exceed the amounts shown in column D above for the Federal Fiscal Year 2008 in which the billing is made.

d. Invoice the State for an additional thirty percent (30%) of the total programmed HURF funds when the Project reaches the thirty percent (30%) completion stage. Total payments by the State to the City shall not exceed the amounts shown in column D above for the Federal Fiscal Year 2008 in which the billing is made, plus any carryover amounts not previously paid in prior years.

e. Invoice the State for an additional thirty percent (30%) of the total programmed HURF funds when the Project reaches the sixty percent (60%) completion stage. Total payments by the State to the City shall not exceed the amounts shown in column D above for the Federal Fiscal Year 2008 in which the billing is made, plus any carryover amounts not previously paid in prior years.

f. Upon satisfactory completion of construction, approve and accept the Project on behalf of the City and provide for maintenance at its own expense. After the final close out Field Review, provide the State with a letter documenting the notice of the approval and acceptance of the project.

g. Prior to invoicing the State for the remaining ten percent (10%) of the Project costs, coordinate with the State on a final field inspection to make certain the Project has been satisfactorily completed and accepted by the City. Total payments by the State to the City shall not exceed the amounts shown in column D above for the Federal Fiscal Year 2008 in which the billing is made, plus any carryover amounts not previously paid in prior years.

2. The State shall:

a. Charge WACOG STP Apportionment in the amount of \$171,475.00 and WACOG Obligation Authority in the amount of \$160,000.00 for the installation of a new traffic signal and related street improvements at Gordon Drive & Bank Street.

b. Within thirty-days (30) after receipt and approval of invoices at construction award, and also the thirty (30%) and sixty percent (60%) construction completion stages, advance the City HURF funds in the amount of 30% at each invoiced stage of construction.

c. Coordinate with the City on a final field inspection to make certain the Project has been satisfactorily completed and accepted by the City. Within 30 days after receipt and approval of the final invoice, remit to the City HURF Funds or the remaining ten percent (10%) of \$144,000.00 for construction of the new traffic signal and related street improvements.

III. MISCELLANEOUS PROVISIONS

1. The terms, conditions and provisions of this Agreement shall remain in full force and effect until completion of said project, except any provisions for maintenance shall be perpetual, unless assumed by another competent entity. Further, this Agreement may be canceled at any time prior to the award of the project construction contract, upon 30 days written notice to the other party. It is understood and agreed that in the event the City cancels this Agreement, the State shall in no way be obligated to maintain said Project.

2. The State assumes no financial obligation or liability under this Agreement, or for any resulting construction Project. The City assumes full responsibility for the design, plans, specifications, reports, the engineering in connection therewith and the construction of the improvements contemplated, cost overruns and construction claims. The City shall require its contractors to name the State and ADOT as an additional insured in the contractor's policies. The City shall also require its contractors to name the State and ADOT as an additional indemnitee in the City's contracts with its contractors. It is understood and agreed that the State's participation is confined solely to advancing Highway User Revenue Funds; that any damages arising from carrying out, in any respect, the terms of this Agreement or any modification thereof, shall be solely the liability of the City and that to the extent permitted by law the City hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, misrepresentation, directives, instruction or event arising out of the performance or nonperformance of any provisions of this Agreement by the State, any of its departments, agencies, officers and employees, the City, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation and attorneys' fees.

3. This Agreement shall become effective upon filing with the Secretary of State.

4. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

5. The provisions of Arizona Revised Statutes § 35-214 are applicable to this Agreement.

6. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

7. This Agreement is subject to all applicable provisions of the Americans with Disability Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable Federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4

issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

8. Non-Availability of Funds: Every payment obligation of the State under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligations. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments as a result of termination under this paragraph.

9. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail, addressed as follows:

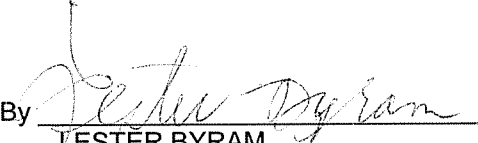
Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue, Mail Drop 616E
Phoenix, Arizona 85007
(602) 712-7525
(602) 712-7424 Fax

City of Kingman, City Engineering
Department
Attn: Debra Casson, P.E.
310 North 4th Street
Kingman, Arizona 86401
(928) 753-8122
(928) 753-8118 Fax

10. In accordance with Arizona Revised Statutes § 11-952 (D) attached hereto and incorporated herein is the written determination of each party's legal counsel and that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.


IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

CITY OF KINGMAN


By 
LESTER BYRAM
Mayor

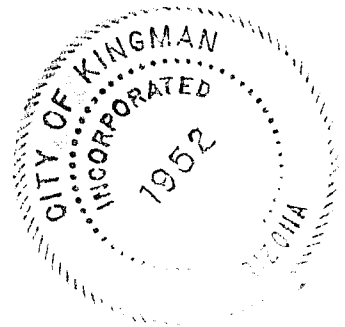
STATE OF ARIZONA

Department of Transportation

By 
DALE BUSKIRK
Division Director

ATTEST:

By 
DEBBIE FRANCIS
City Clerk



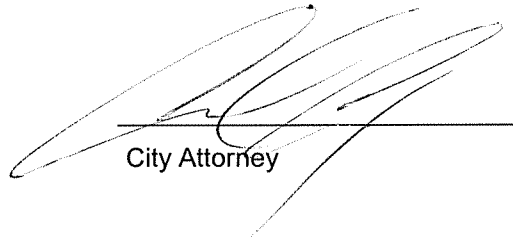
G:\06-139 HURF traffic signal installation City of Kingman
Draft 1 ghc 12-15-06
Revised 1/23/07 ghc

ATTORNEY APPROVAL FORM FOR THE CITY OF KINGMAN

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the CITY, an Agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the CITY under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this 21 day of Feb, 2007.

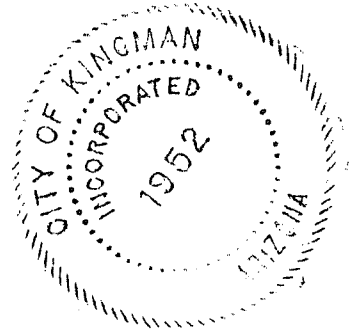


City Attorney

CERTIFICATION

The attached is a true and complete copy of the minutes of the City of Kingman City Council meeting held on February 20, 2007, on file in the City Clerk's Office, as duly passed and adopted by the Mayor and Council of the City of Kingman, Arizona at their meeting of March 5, 2007, and that a quorum was present.

ATTEST: Deborah Francis
Deborah Francis
Clerk for the City of Kingman, AZ



CITY OF KINGMAN

5:00 P.M.

Minutes

Tuesday February 20, 2007

Members:	Officers:	Visitors Signing In:
L. Byram, Mayor	C. Cooper, City Attorney	See attached list
D. French, Vice Mayor	P. Beecher, City Manager	
J. Watson	D. Francis, City Clerk	
T. Carter	R. Foreman, Recording Secretary	
K. Deering	C. Loyd, Finance Director	
R. Lyons	G. Jeppson, Development Services Director	
T. Spear	G. Henry, City Engineer	
	R. Owen, Special Projects Admin	
	J. Weir, Economic Development Director	
	J. Clos, IT Director	
	J. Kramer, Public Works Director	
	J. Walker, HR Director	
	M. Prior, Project Engineer	
	A. Walker, Accountant	
	T. Duranceau, P & Z Administrator	
	R. DeVries, Police Chief	

WORK SESSION MEETING OF THE COMMON COUNCIL

CALL TO ORDER & ROLL CALL

Mayor Byram called the Work Session Meeting to order at 5 p.m. and roll call was taken. All Council Members were present.

1. Presentation by the land owners and developers of the Kingman Crossing Retail and Office Center.

Mayor Byram stated that the purpose of this presentation is to provide information to the Council Members and the general public in regards to Kingman Crossing. Mayor Byram further stated that there is a great deal of interest in the Kingman Crossing but that Council has not made any decisions pertaining to the Kingman Crossing or Interchange. The purpose of the presentation is to better inform Council and the general public.

City Manager, Paul Beecher stated that Vanderbilt Farms, who has purchased the property on the north side of the interchange across from the City's property, are planning on developing that land and would like to operate in cooperation with the City of Kingman in developing both sides of the highway. Mr. Beecher further stated that the purpose for tonight's presentation is to introduce the team member for Vanderbilt Farms and Vestar Development and have them speak about their companies. That being said, Mr. Beecher introduced Kevin Petersen of Vanderbilt Farms.

Mr. Petersen, Vanderbilt Farms, LLC, located at 1121 West Warner Rd., Ste 109, Tempe, Arizona, stated that Vanderbilt Farms is a retail commercial development company and has successfully partnered with Vestar Development Company since 2004 on major municipality projects primarily in the greater metro Phoenix area. Mr. Petersen further stated that the two hundred acres purchased by

Resolution No. 4199 on November 7, 2005. The final plat has been held for recordation pending the completion of the improvement and their subsequent acceptance into the City maintenance system.

c) Acceptance of Grant of Public Utility Easement

The business at 2634 Airway has recently been renovated which required the installation of an onsite fire hydrant. The Utility Regulations require that any offsite fire hydrant be in a public utility easement. Mr. Joe Ott is requesting that the City accept the proposed public utility easement. Staff recommends approval.

d) A.D.O.T. Intergovernmental Agreement: Bank St. & Gordon Dr. traffic signal

The City of Kingman is planning to utilize federal-aid funding to construct a traffic signal at the N. Bank Street & Gordon Drive intersection, in conjunction with the current N. Bank Street widening & reconstruction work. This project will be designed primarily in-house and either added as a change order to the current Bank Street contract or bid as a separate project in late spring or early summer of this year.

The Intergovernmental Agreement between ADOT and the City will allow \$144,000.00 in Highway User Revenue Funds (HURF) to be distributed to the City in October of 2008 after completion of the traffic signal. These funds will then be used toward the repayment of the City's Bank Street HELP loan. Staff recommends approval of IGA JPA file No. 06-1391.

e) Second Quarter of 2006-2007 payment to the Kingman Area Chamber of Commerce

Recommendation from the Economic and Tourism Development Commission (ETDC) for the payment of \$47,500.00 to the Kingman Area Chamber of Commerce (the Chamber) for the performance of duties for the second quarter of the 2006-2007 FY as prescribed by the contract between the City of Kingman (the City) and the Chamber. Staff recommends approval.

f) Resolution 4399: Accepting ADOT-Aeronautics Grant No. E7F63

This resolution accepts ADOT-Aeronautics Grant Number E7F63 in the amount of \$4,659.00 for an Airport Drainage Study and Design Only of Airport Guidance Signs. The attached grant offer from ADOT-Aeronautics is the State's share of the local match for these projects. The Airport Authority will also provide a local match of \$4,659.00. Staff recommends approval.

g) Resolution 4400: Accepting ADOT-Aeronautics Grant No. E7F64

This resolution accepts ADOT-Aeronautics Grant Number E7F64 in the amount of \$1,250.00 for an Environmental Assessment for the future Runway Protection Zone. The attached grant offer from ADOT-Aeronautics is the State's share of the local match for this project. The Airport Authority will also provide a local match of \$1,250.00. Staff recommends approval.

h) Change Order Number 1: North Bank Street, Project #02-ST-0033

The above bid was awarded to Desert Construction, Inc. for the \$2,930,941.89 at the July 17, 2006 City Council Meeting. Change Order No. 1 addresses changes due to varying field conditions, a reduction in the number of fire hydrants that required adjustments, and minor asphalt mix design problems as called out on the Attachment: Change Order No. 1.

Change Order No. 1 contains changes resulting in an \$8,026.33 reduction to the original contract, for a total contract cost of \$2,922,915.56. Staff recommends Approval.

i) Star Motel, Funding Agreement

On December 4, 2006, the City Council authorized a contract for demolition of the Star Motel, 617 E. Andy Devine Avenue, Kingman. The City and the owners, Geoff and

Sharon Bracken have reached an agreement to place a fee simple title lien on the property in the amount of the demolition contract plus recording and title fees (\$32,446.00). By the attached Development Management Agreement, the City will hold a lien position on the property until the owner obtains construction financing for his retail business or in the case the property is sold. Staff recommends approval.

j) Resolution 4395: release of assurances for Morrow Acres III, Tract 6008

Mohave Engineering Associates, Inc., project engineer, and Greg Benetti, property owner, have requested the approval of the release of a property escrow assurance from First American Title Agency of Mohave, Inc., for Morrow Acres III, a subdivision of an area of Morrow Acres. This is in an R-2 zoning district. The subdivision is located North of Morrow Avenue, South of Kino Avenue and East of North Glen Road. Staff recommends approval.

k) Awarding Bid for One Vehicle

There was an oversight when the fleet bid was approved. The Parks Department had budgeted for two pickups and only one was ordered. Award of an additional pickup from lowest bidder Five Star Ford. Staff recommends approval.

City Manager, Paul Beecher, stated that item 4c will be pulled and brought back at a future Council Meeting for discussion.

Councilmember Carter stated that he wants item 4i pulled for further discussion.

Vice Mayor French stated he would be abstaining on items 4f and 4g.

With no further discussion, Councilmember Spear made a MOTION to APPROVE the balance of the Consent Agenda. Councilmember Lyons SECONDED and it was APPROVED by a vote of 6 – 1 with Vice Mayor French abstaining on items 4f and 4g due to a conflict of interest.

(Resolution No. 4393)

(Resolution No. 4399)

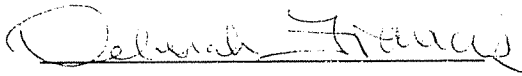
(Resolution No. 4400)

(Resolution No. 4395)

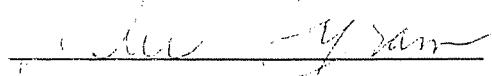
Item 4i, Councilmember Carter stated that the City paid for the demolition of the Star Motel located at 617 E. Andy Devine Avenue for property owners Geoff and Sharon Bracken back in December, 2006, and for doing that, the City put a title lien on this property for the cost of the demolition contract plus recording and title fees in the amount of \$32,446.00. Councilmember Carter asked City Attorney, Carl Cooper if that's correct? Mr. Cooper stated yes. Councilmember Carter asked if the property owners have until the end of 2007 to satisfy this lien. Mr. Cooper stated that's correct. Mr. Cooper further stated that the property owners will either satisfy the title lien with the City or the property will be sold at that time. Councilmember Carter asked, what the City is doing is financing this property until such time the lien is paid back? Mr. Cooper stated yes. Councilmember Carter asked if the City has any means of charging a percentage rate for financing. Mr. Cooper stated that the City could add on an administrative cost but he would need to check into being able to charge interest on a lien to the City. City Manager, Paul Beecher stated that the City does charge interest on liens, what typically happens is, the City gets paid back before the property is sold or before the property owner starts construction because he will need to get financing. Councilmember Carter stated if the City doesn't get paid back before the end of 2007, is there a state law on the City collecting interest. City Attorney, Carl Cooper stated that he would check into it and get back to Council.

ATTEST:

APPROVED:

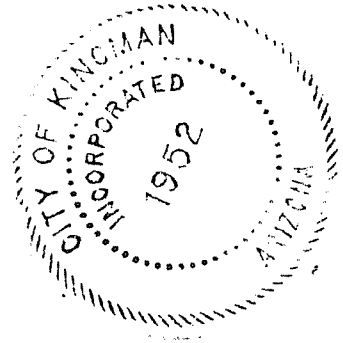


Deborah Francis
City Clerk



Lester Byram, Mayor

STATE OF ARIZONA)
COUNTY OF MOHAVE)ss:
CITY OF KINGMAN)




CERTIFICATE OF COUNCIL MINUTES

I, Robin Foreman, Recording Secretary of the City of Kingman, Arizona, hereby certify that the foregoing Minutes are a true and correct copy of the Minutes of the Work Session and Regular Meeting of the Common Council of the City of Kingman held on February 20, 2007.

Dated this 27th Day of February 2007


Robin Foreman, Recording Secretary

<p>TERRY GODDARD Attorney General</p>	<p> OFFICE OF THE ATTORNEY GENERAL STATE OF ARIZONA</p>	<p>CIVIL DIVISION TRANSPORTATION SECTION Writer's Direct Line: 602.542.8855 Facsimile: 602.542.3646 E-mail: Susan Davis@azag.gov</p>
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INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR07-0101TRN (**JPA 06-139-I**), an Agreement between public agencies, i.e., The State of Arizona and City of Kingman, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: March 21, 2007

TERRY GODDARD
Attorney General


SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

SED:mjf:1005144
Attachment